

Sixty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2304

Introduced by

Senators Klein, Hogue, Luick

Representatives Karls, Kempenich, Nathe

1 A BILL for an Act to create and enact a new section to chapter 53-06.1 and a new subsection to  
 2 section 53-06.1-15.1 of the North Dakota Century Code, relating to alcoholic beverage  
 3 establishment requirements and the authority of the attorney general to impose fines for gaming  
 4 violations; and to amend and reenact ~~section~~sections 53-06.1-01 and 53-06.1-03, subsection 1  
 5 of section 53-06.1-06, and subsections 2 and 5 of section 53-06.1-11 of the North Dakota  
 6 Century Code, relating to gaming licenses for alcoholic beverage establishments, the maximum  
 7 number of gaming sites allowed, the maximum number of pull tab devices allowed at a site,  
 8 approval for a gaming site authorization and licensure, the authorization of employees to  
 9 provide limited assistance related to gaming, modification of allowable expense limits, and rent  
 10 limits for electronic pull tab devices.

11 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

12 **SECTION 1. AMENDMENT.** Section 53-06.1-01 of the North Dakota Century Code is  
 13 amended and reenacted as follows:

14 **53-06.1-01. Definitions.**

15 As used in this chapter:

- 16 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of  
 17 merchandise prizes, gaming tax, and federal excise tax imposed under section 4401  
 18 of the Internal Revenue Code [26 U.S.C. 4401].
- 19 2. "Alcoholic beverage establishment" means an establishment licensed under  
 20 chapter 5-02 where alcoholic beverages are sold, dispensed, and consumed by  
 21 guests on the premises. ~~This~~The term does not include ~~an off-sale~~a liquor store,  
 22 gas station, grocery store, or convenience store licensed for off sale only. ~~An alcoholic~~  
 23 beverage establishment must be licensed under chapter 5-02 and be devoted to the

~~service of alcoholic beverages for consumption by guests on the premises. The term includes a bar located within a hotel, bowling center, golf course, or restaurant.~~

3. "Charitable organization" means an organization whose primary purpose is for relief of poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of cruelty to children or animals, or similar condition of public concern.

~~3.4.~~ "Civic and service organization" means an organization whose primary purpose is to promote the common good and social welfare of a community as a sertoma, lion, rotary, jaycee, kiwanis, or similar organization.

~~4.5.~~ "Closely related organization" means an organization that controls, is controlled by, or is under common control with another organization. Control exists when an organization has the authority or ability to elect, appoint, or remove a majority of the officers or directors of another organization or, by policy, contract, or otherwise, has the authority or ability to directly or indirectly direct or cause the direction of the management or policies of another organization.

~~5.6.~~ "Distributor" means a person that sells, markets, or distributes equipment designed for use in the conduct of games.

~~6.7.~~ "Educational organization" means a nonprofit public or private elementary or secondary school, two-year or four-year college, or university.

~~7.8.~~ "Electronic pull tab device" means a device, approved by the attorney general, which electronically displays pull tabs.

~~8.9.~~ "Eligible organization" means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota or authorized by the secretary of state as a foreign corporation under chapter 10-33, incorporated as a nonprofit organization, and which has been regularly and actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated or be in existence for two years. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general. For purposes of this section, a foreign corporation authorized under chapter 10-33 is not an eligible organization unless authorized to conduct a raffle

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1 under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle  
2 under chapter 20.1-04 or 20.1-08.

3 ~~9-10.~~ "Fraternal organization" means an organization, except a school fraternity, which is a  
4 branch, lodge, or chapter of a national or state organization and exists for the common  
5 business, brotherhood, or other interests of its members. The organization must have  
6 qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10)  
7 of the Internal Revenue Code.

8 ~~40-11.~~ "Games" means games of chance.

9 ~~44-12.~~ "Gross proceeds" means all cash and checks received from conducting games.

10 ~~42-13.~~ "Licensed organization" means an eligible organization licensed by the attorney  
11 general.

12 ~~43-14.~~ "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints,  
13 assembles, or produces the product. For a pull tab dispensing device, bingo card  
14 marking device, or a fifty-fifty raffle system, a manufacturer means the person who  
15 directly controls and manages development of and owns the rights to the proprietary  
16 software encoded on a processing chip that enables the device to operate.

17 ~~44-15.~~ "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and  
18 expenses to conduct the gaming activity.

19 ~~45-16.~~ "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming  
20 tax.

21 ~~46-17.~~ "Off sale" means the sale of alcoholic beverages that are to be consumed off the  
22 licensed premises.

23 18. "On sale" means the sale of alcoholic beverages that are meant to be consumed on  
24 the licensed premises.

25 19. "Permit" means a local permit or restricted event permit issued by a governing body of  
26 a city or county to a nonprofit organization or group of people domiciled in North  
27 Dakota.

28 ~~47-18-20.~~ "Person" means any person, partnership, corporation, limited liability company,  
29 association, or organization.

30 ~~48-19-21.~~ "Prize board" means a board used with pull tabs to award cash or merchandise  
31 prizes.

1 | ~~19.20.22.~~ "Public safety organization" means an organization whose primary purpose is  
2 | to provide firefighting, ambulance service, crime prevention, or similar emergency  
3 | assistance.

4 | ~~20.21.23.~~ "Public-spirited organization" means an organization whose primary purpose is  
5 | for scientific research, amateur sports competition, safety, literary, arts, preservation of  
6 | cultural heritage, educational activities, educational public service, youth, economic  
7 | development, tourism, community medical care, community recreation, or similar  
8 | organization, which does not meet the definition of any other type of eligible  
9 | organization. However, a nonprofit organization or a group of people recognized as a  
10 | public-spirited organization by a governing body of a city or county for obtaining a  
11 | permit does not need to meet this definition.

12 | ~~21.22.24.~~ "Pull tab" means a folded or banded ticket or jar ticket, a pull tab card with  
13 | break-open tabs, or an electronic pull tab displaying concealed numbers or symbols or  
14 | combinations of concealed numbers and symbols which are exposed by a player to  
15 | determine the outcome. The terms "pull tab" and "jar ticket" are used interchangeably  
16 | unless otherwise stated. A winning pull tab contains certain symbols, numbers, or  
17 | combinations of symbols and numbers and may contain multiple winning symbols,  
18 | numbers, or combinations of symbols and numbers which have been previously  
19 | designated as winning symbols or numbers.

20 | ~~22.23.25.~~ "Religious organization" means a church, body of communicants, or group  
21 | gathered in common membership whose primary purpose is for advancement of  
22 | religion, mutual support and edification in piety, worship, and religious observances.

23 | ~~23.24.26.~~ "Veterans organization" means any congressionally chartered post  
24 | organization, or any branch or lodge or chapter of a nonprofit national or state  
25 | organization whose membership consists of individuals who are or were members of  
26 | the armed services or forces of the United States. The organization must have  
27 | qualified for exemption from federal income tax under section 501(c)(19) of the  
28 | Internal Revenue Code.

29 | **SECTION 2. AMENDMENT.** Section 53-06.1-03 of the North Dakota Century Code is  
30 | amended and reenacted as follows:

1       **53-06.1-03. Permits, site authorization, and licenses - Organization requirements -**

2       **Site inspection.**

3           1. Except as authorized by the attorney general, an organization that has its license  
4           suspended or revoked, or has relinquished or not renewed its license and not  
5           disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more  
6           closely related organizations may have a license or permit at one time. A college or  
7           university fraternity, sorority, or club is not closely related to an educational  
8           organization. An organization shall apply for a permit as follows:

9           a. An organization recognized as a public-spirited organization by the governing  
10          body of a city or county may apply for permits. A local permit may allow the  
11          organization to conduct only raffles, bingo, or sports pools. A restricted event  
12          permit may allow the organization to conduct only raffles, bingo, sports pools,  
13          paddlewheels, twenty-one, and poker. The organization or closely related  
14          organizations as a whole may only award a primary prize that does not exceed  
15          eight thousand dollars and total prizes of all games do not exceed forty thousand  
16          dollars per year. These maximum prize amounts do not apply to raffles conducted  
17          under chapter 20.1-08. The determination of what is a "public-spirited  
18          organization" is within the sole discretion of the governing body. An organization  
19          shall disclose on the application its intended use of the net income from the  
20          gaming activity. A governing body may issue a permit for games to be held at  
21          designated times and places.

22          b. An organization shall apply to the governing body of the city or county in which  
23          the proposed site is located. Application must be made on a form prescribed by  
24          the attorney general. Approval may be granted at the discretion of the governing  
25          body. A governing body may establish a fee not to exceed twenty-five dollars for  
26          each permit. A permit must be on a fiscal year basis from July first to June  
27          thirtieth or on a calendar-year basis.

28          c. An organization that has a local permit or a restricted event permit may use the  
29          net income from the gaming activity for any purpose that does not violate this  
30          chapter or gaming rules, unless the organization is a state political party or  
31          legislative district party committee, the organization may use the net income from

- 1 a raffle for a political purpose. For purposes of this subdivision, a public-spirited  
2 use includes a political purpose.
- 3 d. An organization that has a restricted event permit is restricted to one event per  
4 year and:
- 5 (1) May not pay remuneration to employees for personal services;  
6 (2) Shall use chips as wagers;  
7 (3) Shall redeem a player's chips for merchandise prizes or cash;  
8 (4) Shall disburse net income to eligible uses referenced in subdivision c, if  
9 applicable, and in section 53-06.1-11.1; and  
10 (5) Shall file a report prescribed by the attorney general with the governing  
11 body and attorney general.
- 12 2. An eligible organization shall apply for a license to conduct only bingo, electronic quick  
13 shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels,  
14 poker, or sports pools by:
- 15 a. First securing a lease for a gaming site location.  
16 b. After securing a lease for a gaming site location, next securing approval for a site  
17 authorization from the governing body of the city or county in which the proposed  
18 site is located. ~~Approval, which may be granted at the discretion of the governing~~  
19 ~~body,~~ The approved authorization must be recorded on a site authorization form  
20 that is to accompany the license application to the attorney general for final  
21 approval. A governing body ~~may~~;
- 22 (1) May not require an eligible organization to donate net proceeds to the city,  
23 county, or related political subdivision or for community programs or  
24 services within the city or county as a condition for receiving a site  
25 authorization from the city or county. ~~A governing body may~~;
- 26 (2) May limit the number of tables for the game of twenty-one per site and the  
27 number of sites upon which a licensed organization may conduct games  
28 within the city or county. ~~A governing body may~~;
- 29 (3) May charge a one hundred dollar fee for a site authorization; and  
30 ~~b.~~ (4) May not require a site to enter a lease with a specific organization as a  
31 condition of receiving a site authorization;

1 (5) May not deny approval of a site authorization because an organization has  
2 not previously conducted gaming at that site; and

3 (6) May deny approval of a site authorization if an application is incomplete or if  
4 granting approval would violate a local ordinance. An ordinance that places  
5 a condition on how charitable funds may be used may have no effect on the  
6 approval of a site authorization.

7 c. Annually applying for a license from the attorney general before July first on a  
8 form prescribed by the attorney general and remitting a one hundred fifty dollar  
9 license fee for each city or county that approves a site authorization. However,  
10 the attorney general may allow an organization that only conducts a raffle or  
11 calcutta in two or more cities or counties to annually apply for a consolidated  
12 license and remit a one hundred fifty dollar license fee for each city or county in  
13 which a site is located. An organization shall document that it qualifies as an  
14 eligible organization. If an organization amends its primary purpose as stated in  
15 its articles of incorporation or materially changes its basic character, the  
16 organization shall reapply for licensure. The attorney general shall issue a license  
17 to an eligible organization that has obtained approval of site authorization under  
18 subdivision b, applied, paid the requisite fee, and demonstrated it qualifies as an  
19 eligible organization.

- 20 3. A licensed organization or organization that has a permit shall conduct games as  
21 follows:
- 22 a. Only one licensed organization or organization that has a permit may conduct  
23 games at an authorized site on a day, except that a raffle may be conducted for a  
24 special occasion by another licensed organization or organization that has a  
25 permit when one of these conditions is met:
- 26 (1) When the area for the raffle is physically separated from the area where  
27 games are conducted by the regular organization.
- 28 (2) Upon request of the regular organization and with the approval of the  
29 alcoholic beverage establishment, the regular organization's license or  
30 permit is suspended for that specific time of day by the attorney general.

1           b. Except for a temporary site authorized for fourteen or fewer consecutive days for  
2           not more than two events per quarter or a licensed organization authorized on or  
3           before January 1, 2023, to conduct gaming at more than fifteen sites, a licensed  
4           organization may not have more than ~~twenty-five~~fifteen sites ~~unless granted a~~  
5           ~~waiver by the attorney general. If the attorney general finds that there is no other~~  
6           ~~licensed organization interested in conducting gaming at a site for which a waiver~~  
7           ~~is being sought, the attorney general may approve the waiver for no more than~~  
8           ~~five sites.~~

9           c. Games of electronic quick shot bingo, pull tabs, punchboards, twenty-one,  
10          paddlewheels, poker, and sports pools may be conducted only during the hours  
11          when alcoholic beverages may be dispensed according to applicable regulations  
12          of the state, county, or city.

13          d. An organization may not permit a person under twenty-one years of age to  
14          directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports  
15          pools, paddlewheels, or poker. An organization may not permit an individual  
16          under eighteen years of age to directly or indirectly play electronic quick shot  
17          bingo. An organization may not permit an individual under eighteen years of age  
18          to directly or indirectly play bingo unless the individual is accompanied by an  
19          adult, bingo is conducted by an organization that has a permit, or the game's  
20          prize structure does not exceed that allowed for a permit.

21          e. An organization may not install more than ten electronic pull tab devices at a site.

22          f. An organization with more than fifteen licensed sites under subdivision b may not  
23          increase its number of sites beyond the number of sites licensed as of January 1,  
24          2023.

25          4. A permit, or site authorization and license, must be displayed at a site.

26          5. The attorney general may issue a conditional license to an eligible organization whose  
27          regularly issued license has expired or been suspended, revoked, or relinquished. The  
28          attorney general shall designate the time period for which the conditional license is  
29          valid and may impose any conditions.

1       6. A governing body or local law enforcement official may inspect a site's gaming  
2       equipment and examine or cause to be examined any gaming-related books and  
3       records of a licensed organization or organization that has a permit.

4       **SECTION 3. AMENDMENT.** Subsection 1 of section 53-06.1-06 of the North Dakota  
5       Century Code is amended and reenacted as follows:

6       1. No person, except a member, volunteer, an employee of a licensed organization or an  
7       organization that has a permit, or an employee of a temporary employment agency  
8       who provides services to a licensed organization, may manage, control, or conduct  
9       any game. "Member" includes a member of an auxiliary organization. In conducting  
10      pull tabs or prize boards through a dispensing device, selling pull tabs through a  
11      pull-tab device, selling raffle tickets, or conducting sports pools, the ~~attorney-~~  
12      ~~general~~governing body of the city or county in which the site is located may allow an  
13      employee of an ~~alcoholic beverage establishment~~authorized site under section  
14      53-06.1-03, including a location properly licensed by the governing body of the city or  
15      county for on sale alcoholic beverage sales, to provide limited assistance to an  
16      organization.

17      **SECTION 4.** A new section to chapter 53-06.1 of the North Dakota Century Code is created  
18      and enacted as follows:

19      **Alcoholic beverage establishment requirements.**

20      1. When hosting gaming, an alcoholic beverage establishment shall:

21      a. Place a device in a location where alcoholic beverages are dispensed and  
22      consumed.

23      b. Prohibit a person from tampering or interfering with the operation or play of a  
24      device.

25      2. An employee of an alcoholic beverage establishment:

26      a. May pay a winning player a cash or merchandise prize won on a prize board.

27      b. Shall deface a winning number or symbol of a pull tab when it is redeemed.

28      c. May not play pull tabs or prize boards, which involve a dispensing device, or  
29      electronic pull tabs while on duty.

30      **SECTION 5. AMENDMENT.** Subsection 2 of section 53-06.1-11 of the North Dakota  
31      Century Code is amended and reenacted as follows:

1 2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable  
2 expense limit is ~~sixty~~:

3 a. Sixty percent of the adjusted gross proceeds per quarter if the total adjusted  
4 gross proceeds for the quarter are more than one hundred thousand dollars; and

5 b. Sixty-three percent of the adjusted gross proceeds per quarter if the total  
6 adjusted gross proceeds for the quarter are equal to or less than one hundred  
7 thousand dollars.

8 **SECTION 6. AMENDMENT.** Subsection 5 of section 53-06.1-11 of the North Dakota  
9 Century Code is amended and reenacted as follows:

10 5. For a site where bingo is not the primary game:

11 a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed  
12 two hundred dollars multiplied by the necessary number of tables based on  
13 criteria prescribed by gaming rule. For each twenty-one table with a wager  
14 greater than five dollars, an additional amount up to one hundred dollars may be  
15 added to the monthly rent. If pull tabs is also conducted involving only a jar bar,  
16 the monthly rent for pull tabs may not exceed an additional one hundred  
17 seventy-five dollars. If pull tabs is conducted involving only a dispensing device  
18 or a jar bar and dispensing device, the monthly rent for pull tabs may not exceed  
19 an additional three hundred twenty-five dollars.

20 b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted  
21 involving either a jar bar or dispensing device, the monthly rent may not exceed  
22 four hundred dollars.

23 c. If pull tabs is conducted using one or more electronic pull tab devices, the  
24 monthly rent may not exceed an additional one hundred ~~thirty~~ dollars per  
25 machine for the first ~~five~~four machines in the same venue. For each additional  
26 machine in the same venue beyond ~~five~~four, the monthly rent may not exceed ~~an~~  
27 ~~additional fifty~~one hundred dollars per machine up to a maximum of one  
28 thousand one hundred ~~twenty-five~~twenty dollars per month for all electronic pull  
29 tab devices in a single venue. Notwithstanding the foregoing, if no gaming  
30 employee is onsite to administrate the proceeds, the rent may include an  
31 additional fifty dollars per machine for alcoholic beverage establishment

1 employee assistance for up to four machines, resulting in a maximum of one  
2 thousand three hundred twenty dollars per month.

3 **SECTION 7.** A new subsection to section 53-06.1-15.1 of the North Dakota Century Code is  
4 created and enacted as follows:

5 Impose a monetary fine on an owner of an authorized alcoholic beverage  
6 establishment where a licensed gaming activity is conducted or has been conducted  
7 for failure to comply with this chapter. The monetary fine for each violation by an  
8 authorized site owner may not exceed five thousand dollars. An authorized alcoholic  
9 beverage establishment subject to a monetary fine under this section may appeal  
10 under chapter 28-32.